

By Senator Sobel

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1 A bill to be entitled
2 An act relating to the Health Care Clinic Act;
3 amending s. 400.9905, F.S.; redefining the term
4 "clinic"; amending s. 400.991, F.S.; redefining the
5 term "applicant"; defining the term "convicted";
6 prohibiting applicants for clinic licensure from
7 having an arrest awaiting final disposition for, or
8 having been convicted of, a felony or crime punishable
9 by a specified minimum term of imprisonment; requiring
10 the Agency for Health Care Administration to deny an
11 application for a clinic license or license renewal
12 from an applicant who has been found by a state or
13 federal regulatory agency or court to have committed
14 an act that resulted in the suspension or revocation
15 of a clinic license; amending s. 400.995, F.S.;
16 providing that a licensed clinic is subject to a
17 specified administrative penalty if its medical
18 director or clinic director fails to ensure that
19 practitioners providing health care services or
20 supplies to patients have a valid license; amending s.
21 627.736, F.S.; exempting certain federally certified
22 clinics from the requirement of being licensed under
23 the act in order to receive reimbursement under the
24 Florida Motor Vehicle No-Fault Law; reenacting ss.
25 400.991(2), 400.9935(6), 480.0475(1)(a), and
26 817.234(8)(c), F.S., to incorporate the amendment made
27 to s. 400.9905, F.S., in references thereto; providing
28 an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

31
32 Section 1. Subsection (4) of section 400.9905, Florida
33 Statutes, is amended to read:

34 400.9905 Definitions.—

35 (4) "Clinic" means an entity that provides ~~where~~ health
36 care services ~~are provided~~ to individuals and that receives
37 remuneration ~~which tenders charges for reimbursement for the~~
38 ~~such~~ services, including a mobile clinic and a portable
39 equipment provider. As used in this part, the term does not
40 include and the licensure requirements of this part do not apply
41 to:

42 (a) Entities licensed or registered by the state under
43 chapter 395; entities licensed or registered by the state and
44 providing only health care services within the scope of services
45 authorized under their respective licenses under ss. 383.30-
46 383.335, chapter 390, chapter 394, chapter 397, this chapter
47 except part X, chapter 429, chapter 463, chapter 465, chapter
48 466, chapter 478, part I of chapter 483, chapter 484, or chapter
49 651; end-stage renal disease providers authorized under 42
50 C.F.R. part 405, subpart U; providers certified under 42 C.F.R.
51 part 485, subpart B or subpart H; or an any entity that provides
52 neonatal or pediatric hospital-based health care services or
53 other health care services by licensed practitioners solely
54 within a hospital licensed under chapter 395.

55 (b) Entities that own, directly or indirectly, entities
56 licensed or registered by the state pursuant to chapter 395;
57 entities that own, directly or indirectly, entities licensed or
58 registered by the state and providing only health care services

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59 within the scope of services authorized pursuant to their
60 respective licenses under ss. 383.30-383.335, chapter 390,
61 chapter 394, chapter 397, this chapter except part X, chapter
62 429, chapter 463, chapter 465, chapter 466, chapter 478, part I
63 of chapter 483, chapter 484, or chapter 651; end-stage renal
64 disease providers authorized under 42 C.F.R. part 405, subpart
65 U; providers certified under 42 C.F.R. part 485, subpart B or
66 subpart H; or an ~~any~~ entity that provides neonatal or pediatric
67 hospital-based health care services by licensed practitioners
68 solely within a hospital licensed under chapter 395.

69 (c) Entities that are owned, directly or indirectly, by an
70 entity licensed or registered by the state pursuant to chapter
71 395; entities that are owned, directly or indirectly, by an
72 entity licensed or registered by the state and providing only
73 health care services within the scope of services authorized
74 pursuant to their respective licenses under ss. 383.30-383.335,
75 chapter 390, chapter 394, chapter 397, this chapter except part
76 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
77 478, part I of chapter 483, chapter 484, or chapter 651; end-
78 stage renal disease providers authorized under 42 C.F.R. part
79 405, subpart U; providers certified under 42 C.F.R. part 485,
80 subpart B or subpart H; or an ~~any~~ entity that provides neonatal
81 or pediatric hospital-based health care services by licensed
82 practitioners solely within a hospital licensed under chapter
83 395.

84 (d) Entities that are under common ownership, directly or
85 indirectly, with an entity licensed or registered by the state
86 pursuant to chapter 395; entities that are under common
87 ownership, directly or indirectly, with an entity licensed or

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88 registered by the state and providing only health care services
89 within the scope of services authorized pursuant to their
90 respective licenses under ss. 383.30-383.335, chapter 390,
91 chapter 394, chapter 397, this chapter except part X, chapter
92 429, chapter 463, chapter 465, chapter 466, chapter 478, part I
93 of chapter 483, chapter 484, or chapter 651; end-stage renal
94 disease providers authorized under 42 C.F.R. part 405, subpart
95 U; providers certified under 42 C.F.R. part 485, subpart B or
96 subpart H; or an ~~any~~ entity that provides neonatal or pediatric
97 hospital-based health care services by licensed practitioners
98 solely within a hospital licensed under chapter 395.

99 (e) An entity that is exempt from federal taxation under 26
100 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan
101 under 26 U.S.C. s. 409 that has a board of trustees at least
102 two-thirds of which are Florida-licensed health care
103 practitioners and provides only physical therapy services under
104 physician orders, a ~~any~~ community college or university clinic,
105 and an ~~any~~ entity owned or operated by the federal or state
106 government, including agencies, subdivisions, or municipalities
107 thereof.

108 (f) A sole proprietorship, group practice, partnership, or
109 corporation that provides health care services by physicians
110 covered by s. 627.419, that is directly supervised by one or
111 more of such physicians, and that is wholly owned by one or more
112 of those physicians or by a physician and the spouse, parent,
113 child, or sibling of that physician.

114 (g) A sole proprietorship, group practice, partnership, or
115 corporation that provides health care services by licensed
116 health care practitioners under chapter 457, chapter 458,

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117 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
118 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
119 chapter 490, chapter 491, or part I, part III, part X, part
120 XIII, or part XIV of chapter 468, or s. 464.012, and that is
121 wholly owned by one or more licensed health care practitioners,
122 or the licensed health care practitioners set forth in this
123 paragraph and the spouse, parent, child, or sibling of a
124 licensed health care practitioner if one of the owners who is a
125 licensed health care practitioner is supervising the business
126 activities and is legally responsible for the entity's
127 compliance with all federal and state laws. However, a health
128 care practitioner may not supervise services beyond the scope of
129 the practitioner's license, except that, for the purposes of
130 this part, a clinic owned by a licensee in s. 456.053(3)(b)
131 which provides only services authorized pursuant to s.
132 456.053(3)(b) may be supervised by a licensee specified in s.
133 456.053(3)(b).

134 (h) Clinical facilities affiliated with an accredited
135 medical school at which training is provided for medical
136 students, residents, or fellows.

137 (i) Entities that provide only oncology or radiation
138 therapy services by physicians licensed under chapter 458 or
139 chapter 459 or entities that provide oncology or radiation
140 therapy services by physicians licensed under chapter 458 or
141 chapter 459 which are owned by a corporation whose shares are
142 publicly traded on a recognized stock exchange.

143 (j) Clinical facilities affiliated with a college of
144 chiropractic accredited by the Council on Chiropractic Education
145 at which training is provided for chiropractic students.

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146 (k) Entities that provide licensed practitioners to staff
147 emergency departments or to deliver anesthesia services in
148 facilities licensed under chapter 395 and that derive at least
149 90 percent of their gross annual revenues from the provision of
150 such services. Entities claiming an exemption from licensure
151 under this paragraph must provide documentation demonstrating
152 compliance.

153 (l) Orthotic, prosthetic, pediatric cardiology, or
154 perinatology clinical facilities or anesthesia clinical
155 facilities that are not otherwise exempt under paragraph (a) or
156 paragraph (k) and that are a publicly traded corporation or are
157 wholly owned, directly or indirectly, by a publicly traded
158 corporation. As used in this paragraph, a publicly traded
159 corporation is a corporation that issues securities traded on an
160 exchange registered with the United States Securities and
161 Exchange Commission as a national securities exchange.

162 (m) Entities that are owned by a corporation that has \$250
163 million or more in total annual sales of health care services
164 provided by licensed health care practitioners where one or more
165 of the persons responsible for the operations of the entity is a
166 health care practitioner who is licensed in this state and who
167 is responsible for supervising the business activities of the
168 entity and is responsible for the entity's compliance with state
169 law for purposes of this part.

170 (n) Entities that employ 50 or more licensed health care
171 practitioners licensed under chapter 458 or chapter 459 where
172 the billing for medical services is under a single tax
173 identification number. The application for exemption under this
174 subsection must ~~shall~~ contain information that includes: the

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175 name, residence, and business address and phone number of the
176 entity that owns the practice; a complete list of the names and
177 contact information of all the officers and directors of the
178 corporation; the name, residence address, business address, and
179 medical license number of each licensed Florida health care
180 practitioner employed by the entity; the corporate tax
181 identification number of the entity seeking an exemption; a
182 listing of health care services to be provided by the entity at
183 the health care clinics owned or operated by the entity and a
184 certified statement prepared by an independent certified public
185 accountant which states that the entity and the health care
186 clinics owned or operated by the entity have not received
187 payment for health care services under personal injury
188 protection insurance coverage for the preceding year. If the
189 agency determines that an entity which is exempt under this
190 subsection has received payments for medical services under
191 personal injury protection insurance coverage, the agency may
192 deny or revoke the exemption from licensure under this
193 subsection.

194
195 Notwithstanding this subsection, an entity shall be deemed a
196 clinic and must be licensed under this part in order to receive
197 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
198 627.730-627.7405, unless exempted under s. 627.736(5)(h).

199 Section 2. Paragraphs (a) and (b) of subsection (5) of
200 section 400.991, Florida Statutes, are amended, present
201 subsection (6) of that section is redesignated as subsection
202 (7), and a new subsection (6) is added to that section, to read:
203 400.991 License requirements; background screenings;

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204 prohibitions.—

205 (5) (a) As used in this subsection and subsection (6), the
206 term:

207 1. "Applicant" means an individual who owns or controls
208 ~~individuals owning or controlling~~, directly or indirectly, any 5
209 ~~percent or more of an~~ interest in a clinic; the medical or
210 clinic director~~r~~, or a similarly titled individual ~~person~~ who is
211 responsible for the day-to-day operation of the licensed clinic;
212 the financial officer or similarly titled individual who is
213 responsible for the financial operation of the clinic; and a
214 licensed health care practitioner ~~practitioners~~ at the clinic.

215 2. "Convicted" means a finding of guilt, regardless of
216 adjudication, the acceptance of a plea of nolo contendere or
217 guilty by a court, or an adjudication of delinquency if the
218 record has not been sealed or expunged.

219 (b) The agency shall require level 2 background screening
220 for applicants and personnel as required in s. 408.809(1) (e)
221 pursuant to chapter 435 and s. 408.809. In addition to the
222 disqualifying offenses listed in ss. 435.04 and 408.809, an
223 applicant may not have an arrest awaiting final disposition for,
224 or have been convicted of, a felony or a crime punishable by
225 imprisonment of 1 year or more under state or federal law or the
226 law of any other country.

227 (6) The agency shall deny the application for a clinic
228 license or clinic license renewal by an applicant who has been
229 previously found by a state or federal regulatory agency or
230 court to have committed an act that resulted in the suspension
231 or revocation of a clinic license or its equivalent.

232 Section 3. Subsection (4) of section 400.995, Florida

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233 Statutes, is amended to read:

234 400.995 Agency administrative penalties.—

235 (4) A Any licensed clinic shall be subject to an
 236 administrative fine of \$5,000 per day if its:

237 (a) whose Owner, medical director, or clinic director
 238 concurrently operates an unlicensed clinic ~~shall be subject to~~
 239 ~~an administrative fine of \$5,000 per day.~~

240 (b) Medical director or clinic director violates s.
 241 400.9935(1) (b).

242 Section 4. Paragraph (h) of subsection (5) of section
 243 627.736, Florida Statutes, is amended to read:

244 627.736 Required personal injury protection benefits;
 245 exclusions; priority; claims.—

246 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

247 (h) As provided in s. 400.9905, an entity excluded from the
 248 definition of a clinic shall be deemed a clinic and must be
 249 licensed under part X of chapter 400 in order to receive
 250 reimbursement under ss. 627.730-627.7405. However, this
 251 licensing requirement does not apply to:

252 1. An entity wholly owned by a physician licensed under
 253 chapter 458 or chapter 459, or by the physician and the spouse,
 254 parent, child, or sibling of the physician;

255 2. An entity wholly owned by a dentist licensed under
 256 chapter 466, or by the dentist and the spouse, parent, child, or
 257 sibling of the dentist;

258 3. An entity wholly owned by a chiropractic physician
 259 licensed under chapter 460, or by the chiropractic physician and
 260 the spouse, parent, child, or sibling of the chiropractic
 261 physician;

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262 4. A hospital or ambulatory surgical center licensed under
263 chapter 395;

264 5. An entity that wholly owns or is wholly owned, directly
265 or indirectly, by a hospital or hospitals licensed under chapter
266 395; ~~or~~

267 6. An entity that is a clinical facility affiliated with an
268 accredited medical school at which training is provided for
269 medical students, residents, or fellows; ~~or~~

270 7. An entity that is certified under 42 C.F.R. part 485,
271 subpart H.

272 Section 5. Subsection (2) of s. 400.991, subsection (6) of
273 s. 400.9935, paragraph (a) of subsection (1) of 480.0475, and
274 paragraph (c) of subsection (8) of s. 817.234, Florida Statutes,
275 are reenacted for the purpose of incorporating the amendment
276 made by this act to s. 400.9905, Florida Statutes, in references
277 thereto.

278 Section 6. This act shall take effect July 1, 2015.